

(May 11, 1983)

[Residential Telecommunications Consumer Corporations]

AMENDMENT TO H.R. _____

OFFERED BY Mr. Markey

1 SEC. _____. (a) Funds authorized to be appropriated under
2 this Act to the Federal Communications Commission shall be
3 used by the Commission to prescribe (and make effective not
4 later than January 1, 1984) a regulation under which a
5 nonprofit residential telecommunications consumer
6 corporation shall be established in each State. Such
7 regulation shall provide that a State Corporation (1) shall
8 not be an agency or establishment of the Federal Government,
9 (2) shall be subject to the provisions of such regulation
10 and, to the extent consistent with this section and such
11 regulation, to the laws of such State regarding nonprofit
12 corporations, and (3) shall have the usual powers conferred
13 upon a nonprofit corporation under the laws of that State.

14 (b) The membership of each State Corporation shall
15 consist of all residential telephone consumers, who are
16 residents of such State, who are 16 years of age or older,
17 and who have contributed to the Corporation a minimum
18 membership fee to be set by the Board of Directors of the
19 Corporation.

20 (c) Such regulations shall provide that--

1 (1) each State Corporation may intervene as of right
2 as a party or otherwise participate in any proceeding
3 conducted by a Federal agency which the Corporation
4 reasonably determines may affect the interests of
5 residential telephone consumer within that State;

6 (2) each State Corporation shall be deemed to have
7 an interest sufficient to maintain, intervene as of
8 right in, or otherwise participate in any civil action
9 for the review or enforcement of any decision by any
10 Federal agency which the Corporation reasonably
11 determines would adversely affect the interests of
12 residential telephone consumers within such State, and
13 the State Corporation shall be deemed to have such
14 interest regardless of whether the Corporation was a
15 party to the proceeding before such Federal agency;

16 (3) each State Corporation shall have the same
17 rights regarding intervention or participation in
18 Federal agency, and State agency or State commission
19 proceedings of the State in which the Corporation is
20 established, representation by counsel, participation in
21 prehearing conferences, discovery, requests for issuance
22 of subpoenas by the agency or commission involved,
23 stipulation of facts, presentation and cross-examination
24 of witnesses, oral and written argument, participation
25 in settlement negotiations, and other aspects of the

1 proceedings are accorded to other intervenors under the
2 laws governing such proceedings, except as otherwise
3 provided in the Communications Act of 1934 or other
4 applicable provisions of Federal law;

5 (4) each State Corporation shall have the authority
6 to prepare and furnish to each telephone carrier in the
7 United States, not less than 14 calendar days and not
8 more than one year in advance of the date of any
9 periodic customer billing of such telephone carrier--

10 (A) an enclosure, which shall fit into such
11 billing, containing a statement concerning the
12 organization and activities of the State Corporation
13 and other matters which the State Corporation
14 determines may affect the interests of residential
15 telephone consumers; and

16 (B) an enclosure, which shall fit into such
17 billing, or a statement to be printed upon the face
18 of the billing or any electronic transmission of the
19 billing, in a size of type which the Board of
20 Directors of such State Corporation determines is
21 sufficient to attract attention--

22 (i) indicating that the telephone consumer
23 billed and others in the household of the
24 consumer may contribute a membership fee and
25 additional moneys to the Corporation by a

1 payment to the telephone carrier of a specified
2 amount which shall be (I) set by the Board, in
3 excess of the payment made by the consumer to
4 the telephone carrier for exchange of or
5 interexchange transmission services; and (II)
6 transferred by the telephone carrier to the
7 State Corporation; and

8 (ii) containing instructions which clearly
9 explain the method of payment of membership fees
10 and additional contributions to the State
11 Corporation, as decided under clause (i).

12 (d)(1) Such regulation shall also provide that each
13 telephone carrier furnished with any statement or other
14 enclosure by a State Corporation in accordance with
15 subsection (e) shall print or otherwise include or enclose
16 such statement or enclosure within, upon, or attached to
17 each periodic customer billing with respect to which such
18 statement or enclosure is furnished by the Corporation.

19 (2) Under such regulation each State Corporation
20 promptly shall reimburse each telephone carrier for all
21 reasonable costs incurred by the telephone carrier, in
22 excess of normal costs for periodic customer billings, in
23 complying with the requirements of such regulation and this
24 section, except that--

25 (A) the State Corporation shall not be required to

1 reimburse the telephone carrier for any postage costs if
2 the weight of the enclosure furnished by the Corporation
3 does not exceed 35/100 ounce avoird; and

4 (B) the Corporation may postpone reimbursement of
5 any costs incurred before the first election of
6 Directors under subsection (g) until the end of the 12-
7 month period following such first election.

8 (f) The regulation under this section shall provide that
9 each telephone carrier shall establish, as part of its
10 system of accounts, an account for each appropriate State to
11 be known as the Telecommunications Consumer Corporation
12 Account. All contributions to a State Corporation received
13 by the telephone carrier and all other moneys due a State
14 Corporation under the control of the telephone carrier shall
15 be deposited in the account for such State Corporation
16 immediately upon receipt of such contributions or other
17 moneys.

18 (g)(1) The regulation under this section shall provide
19 that--

20 (A) the general management of the property, affairs,
21 and activities of each State Corporation shall be vested
22 in a Board of Directors consisting of not less than 15
23 nor more than 29 Directors, as the Board shall from time
24 to time determine;

25 (B) no officer, employee, consultant, attorney,

1 accountant, real estate agent, shareholder, or
2 bondholder of any telephone carrier doing business in
3 the United States, or any member of the immediate family
4 of any such individual, shall be eligible to serve as a
5 Director;

6 (C) except for members of the Interim Board of
7 Directors appointed under subsection (h), Directors of
8 any State Corporation shall be elected by and from among
9 the membership of that Corporation, and such Directors
10 shall serve for a term of two years and without
11 compensation, except that they may be reimbursed for
12 actual expenses incurred by them in the performance of
13 their duties;

14 (D) each State Corporation shall not have any power
15 to issue any shares of stock, or to declare or pay any
16 dividends, and no part of the income or assets of such
17 Corporation may inure to the benefit of any director,
18 officer, or employee of the Corporation, or any other
19 individual, except (in the case of individuals other
20 than directors) as salary or reasonable compensation for
21 services, and any State Corporation may not contribute
22 to or otherwise support any political party or candidate
23 for elective public office; and

24 (E) the Board of Directors of any State Corporation
25 shall formulate the policies of the Corporation with

1 respect to the functions and activities of the
2 Corporation.

3 (h) Funds authorized to be appropriated under this Act
4 to the Federal Communications Commission shall be used by
5 the Commission to appoint, not later than January 1, 1985,
6 an Interim Board of Directors for each State Corporation to
7 serve until the first elected Directors installed in office.
8 Such appointments shall be made after consultation with--

9 (1) the members of the Subcommittee on
10 Communications of the Committee on Commerce, Science,
11 and Transportation of the Senate and the members of the
12 Subcommittee on Telecommunications, Consumer Protection,
13 and Finance of the Committee on Energy and Commerce of
14 the House of Representatives, and

15 (2) appropriate State regulatory commissions.

16 The members of the Interim Board shall serve as
17 incorporators and shall take whatever actions are necessary
18 to establish the Corporation under the laws of the District
19 of Columbia.

20 (i) For purposes of this section:

21 (1) The terms "'Board of Directors'" and "'Board'"
22 mean the Board of Directors of a State Corporation.

23 (2) The term "'State Corporation'" means a nonprofit
24 residential telecommunications consumer corporation
25 authorized to be created in the regulation under

1 subsection (a).

2 (3) The term ''Federal agency'' has the same meaning
3 as the term ''agency'' in section 551(1) of title 5,
4 United States Code.

5 (4) The term ''periodic customer billing'' means a
6 demand for payment for exchange or interexchange
7 transmission service made by a telephone carrier to a
8 residential telephone consumer on a monthly or other
9 regular basis.

10 (5) The term ''residential telephone consumer''
11 means any resident of the United States whose residence
12 is furnished with exchange or interexchange transmission
13 service by a telephone carrier.

14 (6) The term ''telephone carrier'' means any person
15 which provides any exchange or interexchange
16 communication service.

17 (7) The term ''State'' means each of the 50 States
18 and the District of Columbia.